

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

GERTRUDE REEVES,

Plaintiff,

vs.

NOVARTIS PHARMACEUTICALS
CORPORATION,

Defendant.

4:21-CV-3186

MEMORANDUM AND ORDER

The plaintiff, Gertrude Reeves, has alleged in her complaint claims of (1) strict liability for the defendant's failure to warn, (2) negligence, (3) fraudulent misrepresentation, and (4) negligent misrepresentation in connection with the defendant's testing, marketing, promotion, labeling and distribution of its prescription medication Beovu. [Filing 1](#). The defendant has moved for dismissal pursuant to [Fed. R. Civ. P. 12\(b\)\(6\)](#) arguing that the plaintiff has failed to state a claim upon which relief can be granted. [Filing 6](#). The defendant also asks for oral argument. [Filing 8](#).

The plaintiff's allegations, and the arguments of the parties here, are essentially identical to the allegations and arguments in three other matters against this defendant currently pending in this Court. See [Sundell v. Novartis](#), No. 8:21-CV-32 (D. Neb. filed Sept. 8, 2021); [Harris v. Novartis](#), No. 4:21-CV-3013 (D. Neb. filed Sept. 8, 2021); [Cohen v. Novartis](#), No. 4:21-CV-3014 (D. Neb. filed Sept. 8, 2021). The only difference that the defendant has identified is that here, the plaintiff's initial and final Beovu injections occurred sooner in time than the initial and final Beovu injections for the three plaintiffs in the other cases. As such, there are fewer adverse event reports here to trigger the defendant's capacity, or duty, to change its product label.

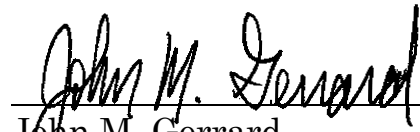
The Court finds that this difference is not a material distinction. For the reasons identified in this Court's Memorandum and Order in the previous cases identified above, the defendant's motions to dismiss and for oral argument are denied.

IT IS ORDERED:

1. The defendant's motion to dismiss ([filing 6](#)) is denied.
2. The defendant's motion for oral argument ([filing 8](#)) is denied.
3. This matter is referred to the Magistrate Judge for case progression.

Dated this 24th day of November, 2021.

BY THE COURT:



John M. Gerrard
United States District Judge